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Briggs County Office Of The Public Defender

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State of Columbia vs John Davis

I.

In the interest of interest, the courts of Columbia should grant defendant's motion in limine to exclude the handwritten transcripts. First, the original document rule applies because the State is using the contents transcripts to prove the element of conspiracy. Under the original document rule, the original of the document applies when it's contents are being used. Second, the defendant will be severely prejudiced if the handwritten transcript are introduced. The state has failed to justify the lost of the original messages, and the copies are unreliable.

II.

<u>The Original Document Rule</u>

Under Columbia rule Evidence 1002, "an original writing,

record or photograph is required to prove its contents unless the rules provide otherwise." In Jones, the court of appeals found that original applicant rule was not required but the it's the contents of the emails were not used to prove the element of conspiracy. In Jones, defendant had been charged for conspiracy to traffic counterfeit watches. The court found that, the note and testimony of the defective were not used. for the purpose of showing that Jone and discussed the sales of counterfeit to satisfy the element of conspiracy but instead to establish Jones had been in contact with her conspirator. Thus the original document rule did not apply.

The Original Document Rule Applies

Here, the facts from Jone are different from the case at hand. Unlike Jones, the state here is using the text messages to prove the element of conspiracy. The messages are used to to show that Davis has conspired and agreed with his conspirator with the intent to distribute cocaine. The state is relying on the hand written transcript to prove that Cameron and Davis met with the buyer wishing to purchase cocaine.

Grimes Balancing Test

Under Columbia Evidence 1004(a), the original document is not required, and other evidence of the contents of a writing is admissible "all the originals are lost or

destroyed and not by the proponents acting in bad faith"

When criminal evidence is lost or destroyed, the courts must protect a number of interest to ensure that defendant is not prejudiced from loss or destruction of evidence. The government bears the burden of the if justifying it's conduct, and the defendant bears the burden of demonstrating prejudice. In analyzing the degree of prejudice, the courts apply a balancing test includes 1) the centrality of the evidence to the case and its importance in establishing the elements of the crime, 2) the reliability of the substitute evidence, 3) the probable effect on effect form absence.

The court in Grimes found that Brian Grimes was prejudiced when the trial court denied the Grime's motion in limine. In Grimes, Grimes was charged with robbed wire fraud relating to theft of certain negotiable instrument which included travel checks that could be converted to cash. The traveler checks are central to the theft charges against Grimes. Applying the balancing test, the courts found the State could not meet it's burden because the State offered no explanation or how the traveler checks disappeared.

And at the same time, the courts found Grimes proved his burden of demonstrating prejudice based on the unavailability of the original documents. The court found that the copies to be unreliable due to factors such resolution, readability, and quality. Thus the court found

Grimes would have been severely prejudiced if the state would have been permitted to use the quality.

The Destruction of Text Messages Was Done in Bad Faith

Here, the courts should allow the motion in limine seeking to include the handwritten transcript. First, the State has not met its burden justifying the destruction of the text messages. The destructions of the text message occurred during police custody without cause. Similar to the facts Grimes, the State could not justify when or how the text messages were destroyed in police custody. Second, the transcript are not reliable. The transcripts were written without the officers full attention. In his testimony, Officer Powers states that he wrote the transcript during "phone calls, meet, people coming by [his] desk." The transcripts cannot be trusted for its reliability.

Davis on the other hand, "amply meets his burden of demonstrating prejudice based on the unavailability of the documents. The contents of the transcripts are being used to prove that Davis a conspirator. But the contents of the transcripts are neither probative nor reliable. Davis charged for conspiracy to distribute cocaine but the transcript does not mentioned cocaine. And the state has failed prove those messages were sent by Davis as well. Davis will be prejudiced if the State is permitted to use the handwritten transcript.

For the reasons above, it would be in the court's best interest to allow the motion in limine. If not, Davis would be severely prejudiced.

III.

In short, the court should grant the motion in limine exclude the handwritten copies. The copies are not the original and yet the State request to use it's content to prove that Davis committed conspiracy. Moreover, the State has not met the burden on the destruction of evidence. Davis on the other hand has amply met his burden proving that he will be extremely prejudiced by the handwritten transcripts. Therfore, the court should grant Defendant's motion in limine to exclude the evidence.

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